

Service Date: November 29, 1979

BEFORE THE UTILITY DIVISION
DEPARTMENT OF PUBLIC SERVICE REGULATION
MONTANA PUBLIC SERVICE COMMISSION

IN TH E MATTER of the Petition of)
THE MONTANA POWER COMPANY) DOCKET NO. 6454
for Increased Rates and Charges) ORDER NO. 4350E
in Gas and Electric Service.)

FINDINGS OF FACT

1. On April 25, 1978, the Commission issued Order No. 4350D in Docket No. 6454.

2. On May 22, 1978 the Montana Power Company (MPC) filed a Complaint and Petition for Partial Review in the District Court of the Second Judicial District of the State of Montana, in and for the County of SilverBow. The cause was assigned number 63493.

3. The Complaint and Petition was limited to a consideration of a portion of the Commission's order which eliminated \$3.025 million from MPC's rate base. This figure represented the difference between MPC's purchase price for a Milwaukee Railroad transmission line and the amount determined by the Commission to be the original cost of the property.

4. On June 25, 1979, the Court issued Findings of Fact, Conclusions of Law, Order and Judgment which found that the Commission clearly erred in its rate making treatment of the Milwaukee property. The Court ordered the Commission to restore \$3.025 million to MPC's "electric plant account."

5. The Commission and the Montana Consumer Counsel appealed the District Court's decision to the Montana Supreme Court, where it was assigned number 14932.

6. Following extensive negotiations, parties to the District Court action agreed to Amended Findings of Fact, Conclusions of Law, Order and Judgment and entered a stipulation to that effect on October 15, 1979.

7. On October 17, 1979, pursuant to motions of the Commission and the Montana Consumer Counsel, the Montana Supreme Court dismissed the appeal, with prejudice.

8. On October 24, 1979, the District Court signed the Amended Findings, Conclusions, Order and Judgment, as proposed by the parties which was then filed the same date with the Clerk of Court of Silver Bow County.

9. The Amended Order directed the Commission to restore to MPC's electric rate base the sum of \$3.025 million associated with the purchase of the Milwaukee line, within 60 days of the date of the order.

CONCLUSION OF LAW

1. The order which follows fully complies with the District Court's directive to the Commission.

ORDER

1. The Montana Power Company shall add \$3.025 million to the electric rate base approved in the Commission's Order No. 4350D.

2. The Montana Power Company shall file electric rate

schedules which reflect the additional \$3.025 million in rate base. Rate schedules shall be effective upon their approval.

DONE IN OPEN SESSION this 19th day of November, 1979, by a vote of 4-0 .

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

GORDON E. BOLLINGER, Chairman

THOMAS J. SCHNEIDER, Commissioner

JAMES R. SHEA, Commissioner

GEORGE TURMAN, Commissioner

ATTEST:

Madeline L. Cottrill
Secretary

(SEAL)